

REMARKS

Claims 1 to 20 were pending in the application at the time of examination. Claims 1, 3-4, 6, 8-17, and 19 stand rejected as obvious. Claims 2, 5, 7, 18, and 20 stand objected to as being dependent upon a rejected base claim. Claims 1-20 are pending in the application.

The rejections of Claims 1, 3-4, 6, 8-17, and 19 should be withdrawn.

Szor (US Pub. No. 2004/0158725 A1) is not prior art with respect to the present application.

In the Office Action at page 2, paragraph 2, the Examiner rejected Claims 1, 3-4, 6, 8-17, and 19 under 35 U.S.C. §103(a) as being unpatentable over Khazan (US Pub. No. 2005/0108562 A1) in view of Szor (US Pub. No. 2004/0158725 A1), hereinafter Szor. Applicant respectfully traverses the obviousness rejections of Claims 1, 3-4, 6, 8-17, and 19.

Applicant respectfully submits that Szor is not prior art with respect to the present application.

35 U.S.C. §103 states in part:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

MPEP §2141.01 (Eighth Ed., Rev. 3, August 2005) states in part:

A 35 U.S.C. 103 rejection is based on 35 U.S.C. 102(a), 102(b), 102(e), etc. depending on the type of

prior art reference used and its publication or issue date.

Applicant respectfully submits that Szor does not qualify as prior art under 35 U.S.C. §102 for use in a 35 U.S.C. §103(a) rejection.

Szor is not prior art under 35 U.S.C. §102(a)
35 U.S.C. 102 states in part "(a) person shall be entitled to a patent unless...":

...(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent....

Applicant submits that Szor fails as prior art under 35 U.S.C. §102(a) because Szor is not "by others", and was not published "before the invention thereof by the applicant for patent".

Szor, as published, lists Peter Szor, Northridge, CA, as the sole inventor, and the filing receipt of the present invention lists Peter Szor, Northridge, CA, as the sole inventor of the present application. Thus, Applicant submits Szor is not "by others".

Further, Szor, as published, lists a publication date of August 12, 2004, which is after the filing date of August 4, 2003 the present invention. Thus, Applicant submits Szor was not published "before the invention thereof by the applicant for patent".

Therefore, Applicant submits that Szor fails as prior art under 35 U.S.C. §102(a).

Szor is not prior art under 35 U.S.C. §102(b)
35 U.S.C. 102 states in part "(a) person shall be entitled to a patent unless...":

...(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States....

Applicant submits that Szor fails as prior art under 35 U.S.C. §102(b) because Szor was not "published more than one year prior to the date of the application for patent in the United States" of the present application.

As earlier described, Szor, as published, lists a publication date of August 12, 2004, which is after the filing date of August 4, 2003 for the present invention. Thus, Applicant submits Szor was not "published more than one year prior to the date of the application for patent in the United States" of the present application.

Therefore, Applicant submits that Szor fails as prior art under 35 U.S.C. §102(b).

Szor is not prior art under 35 U.S.C. §102(e)

35 U.S.C. 102 states in part "(a) person shall be entitled to a patent unless...":

...(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the application for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language....

Applicant submits that Szor fails as prior art under 35 U.S.C. §102(e) because Szor is not "by another".

As earlier described, Szor, as published, lists Peter Szor, Northridge, CA, as the sole inventor, and the filing receipt of the present invention lists Peter Szor, Northridge, CA, as the sole inventor of the present application. Thus, Applicant submits Szor is not "by another".

Therefore, Applicant submits that Szor fails as prior art under 35 U.S.C. §102(e).

Based on the above remarks, Applicant respectfully submits that Szor is not prior art with respect to the present application and cannot be used for the purpose of rejection of Claims 1, 3-4, 6, 8-17, and 19 under 35 U.S.C. §103(a), and that Claims 1, 3-4, 6, 8-17, and 19 are allowable.

Applicant respectfully requests reconsideration and withdrawal of the obviousness rejections of Claims 1, 3-4, 6, 8-17, and 19.

The objections to Claims 2, 5, 7, 18, and 20 should be withdrawn.

In the Office Action at page 4, the Examiner stated:

Claims 2, 5, 7, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully traverses the objections of Claims 2, 5, 7, 18, and 20.

As set forth above, Claims 1, 3-4, 6, 8-17, and 19 are allowable.

Claim 2, Claims 5 and 7, Claim 18, and Claim 20, which depend respectively from Claim 1, Claim 3, Claim 17, and Claim 19, are allowable for at least the same reasons as Claim 1, Claim 3, Claim 17, and Claim 19.

Applicant respectfully requests reconsideration and withdrawal of the objections of Claims 2, 5, 7, 18, and 20.

Conclusion

For the foregoing reasons, Applicant respectfully requests reconsideration and allowance of all pending claims.

If the Examiner disagrees with the above remarks, the Examiner is respectfully requested to set forth the basis on which Szor (US Pub. No. 2004/0158725 A1) is prior art to the present application.

Further, if the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 21, 2006.


Attorney for Applicant(s)

July 21, 2006
Date of Signature

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